

Before the Court is the Report and Recommendation of United States Magistrate Judge Dereck T. Gilliland. ECF No. 346. The Report recommends that this Court: (1) deny Plaintiff's Daubert Motion to Exclude Certain Opinions In the Expert Report of Stephen L. Becker, Ph.D. Or In The Alternative Strike Portions of the Expert Report of Stephen L. Becker, Ph.D. (ECF No. 257); (2) deny Plaintiff's Motion to Strike Certain Portions of Defendants' Expert Reports and Rule 26(a)(2)(C) Disclosure (ECF No. 258); (3) deny Plaintiff's Motion to Exclude Certain Opinions In the Expert Reports of Benjamin F. Goldberg, Ph.D. And Kevin Jeffay, Ph.D. Regarding Invalidity of U.S. Patent No. 9,164,800 And Licensing Opinions of Tajana Rosing, Ph.D. and Kevin Jeffay, Ph.D. (ECF No. 259); (4) deny Plaintiff's Motion for Partial Summary Judgment For Validity of U.S. Patent No. 9,164,800 (ECF No. 260); (5) grant as unopposed Plaintiff's Motion for Partial Summary Judgment and Supplemental Motion in Limine (ECF No. 297); (6) deny Defendants' Motion to Dismiss First Amended Complaint for Failure to State a Claim (ECF No. 38); (7) deny Defendants' Opposed Motion for Intra-District Transfer of Venue to the Austin Division of the Western District of Texas (ECF No. 43); (8) deny Defendants'

Opposed Motion to Dismiss for Lack of Subject Matter Jurisdiction Under Federal Rule of Civil Case Procedure 12(B)(1) (ECF No. 195); (9) deny-in-part and grant-in-part Defendants' Motion to Exclude Certain Portions of Mr. Roy Weinstein's Expert Report (ECF No. 249); (10) grant Defendants' Motion to Strike Certain Portions of Mr. Roy Weinstein's Expert Report (ECF No. 253); (11) deny Defendants' Motion to Exclude Certain Opinions of Stan McClellan, Ph.D. (ECF No. 251); (12) grant as unopposed Defendants' Motion to Strike Certain Portions of Dr. Stan McClellan's Expert Report Regarding Indirect Infringement (ECF No. 255); (13) deny Defendants' Rule 12(c) Motion for Judgment on the Basis of Ineligibility Under 35 U.S.C. § 101 of U.S. Patent No. 7,092,360 (ECF No. 172); (14) deny Defendants' Daubert Motion and Motion to Exclude Certain Opinions of Dr. Stan McClellan as to U.S. Patent No. 7,092,360 (ECF No. 245); and (15) grant-in-part as to "current pointer," "next pointer," and "selector;" and deny-in-part as to "computer generated model" and "monitor" Defendants' Motion for Summary Judgment of Non-Infringement of U.S. Patent No. 7,092,360 (ECF No. 247). ECF No. 346. The Report and Recommendation was filed on January 30, 2023. *Id.*

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not consider "[f]rivolous, conclusive, or general objections." *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)).

Defendants' filed objections on February 10, 2023. ECF No. 358. Specifically, Defendant objects to the Magistrate Judge's recommendation to (1) deny-in-part and grant-in-part

Defendants’ Motion to Exclude Certain Portions of Mr. Roy Weinstein’s Expert Report (ECF No. 249); (2) deny Defendants’ Daubert Motion and Motion to Exclude Certain Opinions of Dr. Stan McClellan as to U.S. Patent No. 7,092,360 (ECF No. 245); (3) deny-in-part as to “computer generated model” and “monitor” Defendants’ Motion for Summary Judgment of Non-Infringement of U.S. Patent No. 7,092,360 (ECF No. 247); (4) deny Defendants’ Opposed Motion to Dismiss for Lack of Subject Matter Jurisdiction Under Federal Rule of Civil Case 6:20-cv-00481-ADA-DTG Document 411 Filed 03/27/2023 Page 1 of 4 Procedure 12(B)(1) (ECF No. 195); (5) deny Defendants’ Rule 12(c) Motion for Judgment on the Basis of Ineligibility Under 35 U.S.C. § 101 of U.S. Patent No. 7,092,360 (ECF No. 172); and (6) deny Defendants’ Opposed Motion for Intra-District Transfer of Venue to the Austin Division of the Western District of Texas (ECF No. 43). Plaintiff filed a response to Defendants’ objections on February 17, 2023. ECF No. 392. Defendants’ filed a reply on February 20, 2023. ECF No. 393.

Plaintiff filed objections on February 10 and 13, 2023. ECF No. 359-367. Specifically, Plaintiff objects to the Magistrate Judge’s recommendation to (1) deny Plaintiff’s Motion to Exclude Certain Opinions In the Expert Reports of Benjamin F. Goldberg, Ph.D. And Kevin Jeffay, Ph.D. Regarding Invalidity of U.S. Patent No. 9,164,800 And Licensing Opinions of Tajana Rosing, Ph.D. and Kevin Jeffay, Ph.D. (ECF No. 259); (2) deny Plaintiff’s Motion for Partial Summary Judgment For Validity of U.S. Patent No. 9,164,800 (ECF No. 260); (3) grant-in-part as to “current pointer,” “next pointer,” and “selector;” and deny-in-part as to “computer generated model” and “monitor” Defendants’ Motion for Summary Judgment of Non-Infringement of U.S. Patent No. 7,092,360 (ECF No. 247); (4) grant-in-part Defendants’ Motion to Exclude Certain Portions of Mr. Roy Weinstein’s Expert Report (ECF No. 249); (5) deny Plaintiff’s Motion for Partial Summary Judgment For Validity of U.S. Patent No. 9,164,800

(ECF No. 260); (6) grant Defendants' Motion to Strike Certain Portions of Mr. Roy Weinstein's Expert Report (ECF No. 253); and (7) deny Plaintiff's Daubert Motion to Exclude Certain Opinions In the Expert Report of Stephen L. Becker, Ph.D. Or In The Alternative Strike Portions of the Expert Report of Stephen L. Becker, Ph.D (ECF No. 257).

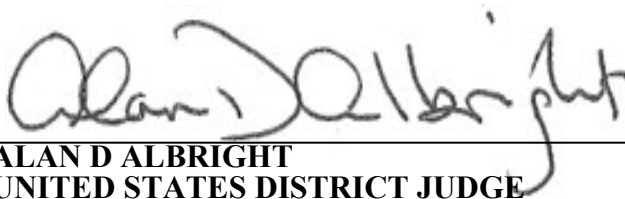
The Court has conducted a *de novo* review of the motion to dismiss, the responses, the report and recommendation, the objections and responses to the report and recommendation, and the applicable laws. After that thorough review, the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted.

IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge Gilliland, ECF No. 346, is **ADOPTED** in its entirety.

IT IS FURTHER ORDERED that Defendants' and Plaintiff's objections are **OVERRULED**.

IT IS FURTHER ORDERED that the motions listed above are ruled on in accordance with the Report and Recommendation.

SIGNED this 30th day of March, 2023.


ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE